

### ***Remarks***

Applicants have carefully reviewed the contents of the Office Action mailed November 2, 2004, in which claims 7 and 23-25 were allowed. Reconsideration is respectfully requested in view of the foregoing amendments.

By this Amendment, claim 26 is amended to positively recite that the stream-contacting surface is a front side of the moveable wall and that at least one moveable wall is trained over the second pulley and has a toothless back side, and new claim 27 is presented that positively states the endless flexible element is a toothless belt (see page 21, lines 11-21 of the originally-filed specification). Accordingly, claims 2-5, 7, 9, 10, 12, 14-21 and 26-27 are pending in the instant application.

Claims 2-5, 9, 10, 12, 14-21 and 26 were rejected under 35 U.S.C. §112, second paragraph for the reasons set forth in the middle of page 2 of the Action. In particular, the recitation of “said belt” lacked sufficient antecedent basis. As stated above, claim 26 has been amended deleting “said belt” and replacing the same with “said at least one movable wall”. Claim 26 further clearly states that wall being trained over the second pulley has a toothless back side. Accordingly, it is believed that claims 2-5, 9, 10, 12, 14-21 and 26 are fully definite under 35 U.S.C. §112, second paragraph and withdrawal of that rejection is requested.

Claims 2-3, 9, 10, 12, 15, 19-21 and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,817,638 to Garthaffner et al. (hereinafter referred to as “Garthaffner”) in view of Crowder (“Electric Drives and Their Controls”) for the reasons set forth in item 1) spanning pages 2-4 of the Action. This rejection is traversed for the reasons set forth below.

Garthaffner is directed to an apparatus for adjusting a cigarette having a variable

smoking characteristic to a preselected level. According to Garthaffner's disclosure, completed cigarettes 12 are carried to a transfer drum 13. Tension belt 23 holds cigarettes 12 firmly in flutes 22 of drum 20 to **prevent their rotation**. Thus, Garthaffner discloses a tension belt not to transport cigarettes, but to prevent their rotation while the drum advances cigarettes to a transfer drum. This is **not** "transporting a stream of particulate matter", as claimed by Applicants. As defined by Webster's New World Dictionary, a "stream" may be a "continuous series or succession" and "particulate" is "a very small, separate particle"(See the attached dictionary definitions). A completed cigarette is **not** a very small separate particle. On the contrary, a completed cigarette is made of a large number of particles. With respect to claims 2, 15 and 20, the particulate material that is a smoking material in Applicants' invention may be tobacco, which later may be converted into a cigarette (See page 12, lines 2-12 of the present application).

Moreover, the alleged channel formed by tension belt 23 and flutes 22 of Garthaffner does not have a wall that is moveable **lengthwise** and has a stream-contacting surface with material receiving recesses. Even if flutes 22 of drum 21 are considered part of a "channel", the alleged moveable wall rotates (i.e., revolves around a center point) and thus, does not move lengthwise as recited by Applicants in claim 26 and claim 21. Accordingly, Garthaffner is directed to a totally different system for transporting a different type of material.

The secondary reference to Crowder was applied for its teachings of a digital drive system. Nowhere does Crowder disclose, teach or suggest the structure that is missing from Garthaffner as argued above. Consequently, even if Garthaffner was modified by Crowder as suggested in the Action, Applicants' invention would not result

as neither reference is directed to transporting particulate matter and neither reference discloses, teaches or suggests a channel having elongated walls defining a stream-receiving and guiding path for receiving the stream of particulate material (e.g., a stream of tobacco). Accordingly, no combination of Garthaffner and Crowder can render claims 2-3, 9, 10, 12, 15, 19-21 and 26 obvious and withdrawal of this rejection is respectfully requested.

Claim 14 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Garthaffner in view of Crowder and further in view of U.S. Patent No. 3,915,075 to Luke et al. (hereinafter referred to as “Luke”) as explained in the paragraph spanning pages 4-5 of the Action. This rejection is respectfully traversed.

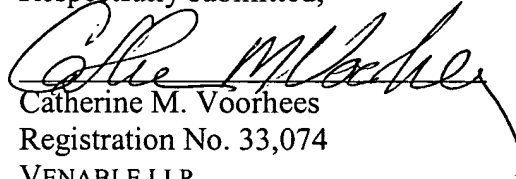
Luke is directed to rod-making apparatus and was applied for its teaching of materials used for gripping cigarette rods. As argued above, the present application is directed to an apparatus for transporting a stream of **particulate material** and not a completed cigarette. Thus, Luke also fails to provide motivation to modify Garthaffner to achieve a channel for transporting particulate material. Accordingly, Luke cannot cure the defects of Garthaffner in view of Crowder and cannot render the claimed invention obvious. Withdrawal of this rejection is requested.

In view of the foregoing remarks and amendments, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 103(a), and the issuance of a Notice of Allowance indicating that claims 2-5, 7, 9, 10, 12, 14-21, and 23-27 are allowed over the prior art of record.

Should the Examiner believe that a conference would advance the prosecution of this application, the Examiner is encouraged to telephone the undersigned counsel to arrange such a conference.

Date: February 2, 2005

Respectfully submitted,



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